

**STATE OF TENNESSEE
DEPARTMENT OF FINANCIAL INSTITUTIONS**

In the matter of:

**FIRST MAGNUS FINANCIAL
CORPORATION,
d/b/a Charter Funding and
as Amtrust Mortgage,**

Respondent.

TDFI no: 07-62-C

EMERGENCY CEASE AND DESIST ORDER

The Commissioner of the Tennessee Department of Financial Institutions (the "Commissioner"), having determined that First Magnus Financial Corporation (the "Respondent"), doing business as Charter Funding and/or Amtrust Mortgage, has violated and is violating the Tennessee Residential Lending, Brokerage and Servicing Act of 1988, Tenn. Code Ann. §§ 45-13-101, *et seq.* (the "Act"), and that extraordinary circumstances warrant immediate action, hereby issues the following EMERGENCY CEASE AND DESIST ORDER pursuant to Tenn. Code Ann. §§ 45-1-107(a)(4) and (c), and Tenn. Code Ann. § 45-13-116.

JURISDICTION AND IDENTIFICATION OF THE PARTIES

1. Pursuant to Tenn. Code Ann. § 45-1-104, the Tennessee Department of Financial Institutions (the "Department") is charged with the execution of all laws relative to persons doing or engaged in a banking or other business as provided in Title 45 of the Tennessee Code.

2. Tenn. Code Ann. § 45-1-107(a)(4) provides that, in addition to other powers conferred by Title 45 of the Tennessee Code, the Commissioner has the power to order

any person to cease violating a provision of Title 45 of the Tennessee Code or lawful regulation issued thereunder, and Tenn. Code Ann. § 45-13-116 provides that if, after notice and opportunity for a hearing, the Commissioner finds that a person has violated the Act or administrative rule issued pursuant to the Act, the Commissioner may take any or all of certain actions, one of which is to order the person to cease and desist violating the Act or any administrative rule issued pursuant to the Act.

3. Pursuant to Tenn. Code Ann. § 45-1-107(c), notice and opportunity for a hearing shall be provided in advance of the Commissioner issuing such an order, except that in cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action but shall promptly afford a subsequent hearing upon application to rescind the action taken.

4. The Respondent is an Arizona for-profit corporation whose principal office is located at 603 North Wilmot Road, Tucson, Arizona 85711. The Respondent has been authorized by the Tennessee Secretary of State to do business in this state as a foreign corporation since January 26, 1999, and is currently authorized to operate under the fictitious names of Charter Funding and Amtrust Mortgage. The Respondent's registered agent in Tennessee is CT Corporation System, whose address is 800 S. Gay Street, Suite 2021, Knoxville, TN 37929.

5. Since February 4, 1998, and at all times relevant hereto, the Respondent has been authorized by the Department to do business in this state as a mortgage lender and broker, having been issued registration number 1109 pursuant to Tenn. Code Ann. § 45-13-103(b)(2).

FACTUAL ALLEGATIONS

6. The factual allegations contained herein are based upon information that the Department has learned and gathered through media reports, communications from other State regulatory authorities, communications from the Respondent, and other sources.

7. On or about August 16, 2007, the Respondent posted on its website, www.firstmagnus.com, a notice that stated, in part:

“In light of the collapse of the secondary mortgage market, First Magnus [Financial Corporation] will not fund any future mortgage loans, and is no longer...funding any mortgage loans previously originated and not yet funded.”

8. On August 17, 2007, multiple media outlets reported that the Respondent had ceased operations as of August 16, 2007, that it would not fund any future loans, and that it might file for bankruptcy protection.

9. Also, on August 17, 2007, Chris Adams, Chief Administrator with the Department's Compliance Division, participated in a telephone conference call (“Conference Call”) with Carl Young and Douglas Lemke, acting as representatives for the Respondent, and with representatives of other State regulatory authorities, to discuss concerns regarding the Respondent's financial condition and its ability to fund mortgage loans.

10. During the Conference Call, the Respondent's representatives indicated that as of August 15, 2007 the Respondent had lost its source of funding, that, as of August 16, 2007 the Respondent was unable to fund any loans, and that the Respondent was contemplating bankruptcy.

11. Also, during the Conference Call, the Respondent had a spreadsheet report (the “Report”) sent via email to the Department that appears to show that, as of August 17, 2007, the Respondent had about one hundred and four (104) loan applications or

commitments in its pipeline involving Tennessee consumers, including at least sixteen (16) cases where the closing documents had been prepared and sent to the settlement agent for closing, and at least one (1) other case where the closing documents were executed and the loan not funded as promised by the Respondent.

12. Said report shows that the current stage of loan number 9576105741 is "DOCS – BACK," which, according to information later provided by the Respondent by email, indicates that the loan documents were executed. As of the date of this Order, the Respondent had not funded said loan.

CAUSES OF ACTION

13. Pursuant to Tenn. Code Ann. § 45-13-108(a)(2), conduct of a manner which would warrant the denial of an application for a license or registration is a violation of the Act, which conduct is outlined at Tenn. Code Ann. § 45-13-105(a), providing that, among other things, in order for an applicant to qualify for a license or registration under the Act, the Commissioner must find that the applicant has the financial responsibility to warrant the belief that the business of the applicant will be operated lawfully and within the purposes of the Act. The factual allegations contained herein demonstrate that the Respondent does not possess the financial responsibility required by the Act.

14. In addition, Tenn. Code Ann. § 45-13-108(a)(9) provides that failure to disburse funds in accordance with a written agreement is grounds for revocation or suspension of any license or registration issued under the Act, and is also a violation of the Act. The failure of the Respondent to fund the closed loan referenced in paragraph 12 above, is thus a violation of the Act.

15. Pursuant to Tenn. Code Ann. § 45-1-107(c), the Commissioner may issue an Emergency Cease and Desist Order without affording prior notice and opportunity for a hearing when extraordinary circumstances so require. Based on the violations already committed, and because the Respondent has mortgage loan applications and mortgage loan commitments in its pipeline that it cannot and presumably will not be able to fund, the likelihood exists that Tennessee consumers dealing with the Respondent may have and may yet suffer irreparable harm by the Respondent; therefore, these extraordinary circumstances require immediate action by the Commissioner.

EMERGENCY ORDER

Having considered the factual allegations contained herein, the Commissioner has determined that the Respondent has violated and is violating the Act, and that extraordinary circumstances warrant immediate action.

IT IS HEREBY ORDERED that the Respondent shall immediately cease and desist from engaging in business as a mortgage lender or mortgage loan broker with respect to any Tennessee consumers and/or residential real property located in Tennessee, except as expressly provided herein, until such time as the Respondent is able to satisfactorily demonstrate to the Commissioner that it is able to engage in the business lawfully and within the purposes of the Act.

IT IS HEREBY FURTHER ORDERED that the Respondent shall fully comply with all of its obligations to each individual consumer who has a mortgage loan currently pending, approved, or closed but not funded, including, but not limited to, making every reasonable effort, at no cost to any of such individuals, to cause such loans to be placed with another authorized mortgage loan broker or authorized mortgage lender so that the

transactions may be completed. The Respondent shall notify the Department in writing of all such efforts and the resolution of each affected loan.

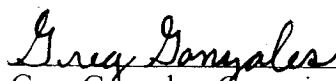
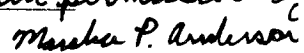
The provisions of this ORDER shall remain in full force and effect unless and until such time as any provision shall have been modified, terminated, suspended or set aside by the Commissioner, an administrative judge, or any court having jurisdiction over the matters addressed herein.

RIGHTS OF THE RESPONDENT

The Respondent has the right to a hearing for the purpose of contesting and obtaining rescission of this ORDER. If a separate hearing is timely requested by the Respondent, any such hearing shall be conducted in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and Chapter 0180-6 of the Rules of the Department.

In order to request a hearing, the Respondent must file a written request within twenty (20) days from receipt of this ORDER. If no such written request is timely filed, then this EMERGENCY CEASE AND DESIST ORDER will be deemed final for all purposes. Any written request for a hearing must be filed with the Commissioner, Tennessee Department of Financial Institutions, Nashville City Center, 511 Union Street, 4th Floor, Nashville, TN 37219.

ISSUED this 20th day of August, 2007.

 with permission by
Greg Gonzales, Commissioner 
Tenn. Dept. of Financial Institutions

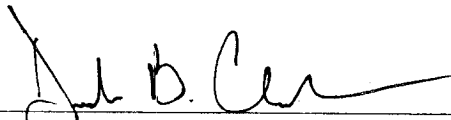
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing will be sent to the Respondent's registered agent at the following address *via* United States Postal Service certified mail, return receipt requested:

**CT Corporation System
800 S. Gay Street, Suite 2021
Knoxville, TN 37929**

I also hereby certify that a true and correct copy of the foregoing has been sent via facsimile transmission to **Douglas Lemke, Esq., General Counsel for the Respondent, at 520-202-0223.**

This the 20th day of August, 2007.

A handwritten signature in black ink, appearing to read "D. B. Church", written over a horizontal line.

Derek B. Church
Certifying Attorney